

**THE HEIRS OF JESUS AMADO ARANETA, PETITIONERS, VS. THE HONORABLE COURT OF APPEALS, THE ISLAMIC DA' WAH COUNCIL OF THE PHILIPPINES, FREDDIE AND MARCONI DA SILVA, RESPONDENTS.**

*G.R. No. 96810. August 21, 1992*

Ponente: NOCON, J.

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**NOCON, J.:**

This is a petition for review on certiorari filed by herein petitioners assailing the decision<sup>[1]</sup> promulgated by the Court of Appeals on July 11, 1990 ordering the dismissal of the Petition to annul Judgment of Foreclosure promulgated on February 5, 1985 by the Regional Trial Court of Quezon City, Branch 95 in Civil Case No. Q-43746.

The facts of the case are as follows:

On December 9, 1955, Spouses Fred Da Silva and Leocadia Da Silva purchased<sup>[2]</sup> from the spouses Zoilo Garcia and Lourdes Muscat a parcel of land with an area of 4,754 square meters, more or less, together with the improvements and covered by Transfer Certificate of Title No. 20366 in the name of the vendors. The mortgage on the said property from the Rehabilitation Finance Corporation (RFC) and the Philippine Bank of Commerce were assumed by the vendees. As a result of the sale, TCT NO. 20366 was cancelled and a new title,<sup>[3]</sup> Transfer Certificate of Title No. 30461 was issued in favor of Spouses Da Silva. The Da Silva spouses fulfilled their obligation until the said property was fully paid.

Leocadia Da Silva died in January 1958 while Fred Da Silva died in February 1963, leaving their sons Freddie and Marconi Da Silva as heirs.

Upon the death of their parents, Freddie and Marconi Da Silva tried to take possession of said property which was being used by a company of Amado Araneta even before the death of their parents because their father, Fred, was working for the Aranetas until his death. The heirs have repeatedly asked petitioner's parents to leave the premises but the Aranetas persuaded the Da Silva children that they be allowed to use the said premises in the meantime while promising to pay for the taxes and rentals, which the Aranetas never did.

Subsequently, Freddie Da Silva discovered that the title to the property in question was missing. Hence, he filed a Petition for Reconstitution of the Owner's Duplicate Certificate of Title, which petition was granted<sup>[4]</sup> by the court on March 9, 1984.

Prior to the reconstitution of the Owner's copy of the Transfer Certificate of Title, the heirs of Da Silva have secured personal loans from the Converts to Islam Society of the Philippines (CONVISLAM) without any collateral or mortgage.

Subsequently, the CONVISLAM assigned the said indebtedness or accounts payable to the Islamic Da' Wah

Council of the Philippines. When the Owner's copy was reconstituted, the officers of the Islamic Da' Wah Council of the Philippines required the heirs of Fred Da Silva to secure a guarantee and/or mortgage for said indebtedness. As a consequence of which a mortgage was constituted on the said property by the Da Silva heirs.

When the Da Silva heirs failed to pay their outstanding indebtedness, a foreclosure proceeding was filed before Branch 95 of the Regional Trial Court of Quezon City.

On February 12, 1985 a decision[5] was rendered by the respondent trial court on the basis of a compromise agreement by the parties, wherein the Da Silvas "agreed to quit claim to plaintiff by way of the foreclosure proceedings that the property covered by TCT NO. 30461 be transferred to plaintiff." As a result, a new title,[6] TCT NO. 328021 was issued in the name of the respondent Islamic Da' wah Council of the Philippines.

The Islamic Da' Wah Council tried to eject the petitioners from the premises but the latter refused and instead contended that they are the owners of the property in question.

As a result of the claim of ownership by the petitioners, private respondent filed a case for Quieting of Title.[7]

Petitioners then filed with the Court of Appeals a petition to annul the decision of the trial court in the foreclosure case, which petition was docketed as CA-G.R. SP No. 12291.[8] In its resolution dated November 10, 1987,[9] the Court of Appeals granted petitioners' prayer for a preliminary injunction to enjoin the trial court hearing the complaint for quieting of title from further proceeding with the case. Private respondents filed a motion for reconsideration, which was denied by the Court of Appeals. Private respondents then proceeded to this Court by way of petition for review, which was likewise denied.[10]

On July 11, 1990, a decision[11] was rendered in CA--G.R. SP No. 12291 dismissing the petition for annulment of the judgment in the foreclosure case for lack of merit. Petitioners' motion for reconsideration was denied by the Court of Appeals on January 10, 1991.[12]

Hence this petition for review on certiorari.

A temporary restraining order[13] was issued on February 26, 1992, enjoining the respondents from disturbing the status quo as regards the ownership and possession of the property in question.

The petitioners allege that the respondent Court of Appeals erred:

- 1) In holding that the petition filed before it did not allege extrinsic fraud vis-a-vis the judgment of foreclosure of mortgage in question.
- 2) In refusing to hold a trial on the petition for annulment of judgment.
- 3) In rendering judgment dismissing the petition for annulment and dissolving the preliminary injunction previously issued by it.

We agree with the respondent Court of Appeals.

The facts of this case show that the owner of the subject property in "fee simple" is private respondent Islamic Da' Wah Council of the Philippines and which property was acquired through a judicial foreclosure of mortgage validly executed by the heirs of Spouses Fred and Leocadia Da Silva.

The parcel of land, subject matter of the mortgage, does not belong to petitioners and they have no existing valid claim of ownership or interest therein. In the beginning, said property was covered by Transfer Certificate of Title No. 30461, issued by the Register of Deeds of Quezon City in the name of spouses Fred and Leocadia Da Silva. This was later cancelled by Transfer Certificate of Title No. 238021 in the name of the respondent Islamic Da'

Wah Council of the Philippines, after it had acquired the property through judicial foreclosure of the mortgage constituted upon said property. Both titles, T.C.T. No. 30461 and T.C.T. No. 238021, are without any lien or annotation of any claim by the petitioners.

The petition itself had no clear allegation of extrinsic fraud as a basis for annulment of judgment. Consequently, respondent Court of Appeals found that the petition had no sufficient basis to stand on and therefore dismissed the case.

Not having alleged extrinsic fraud, which is a ground for annulment of judgment of the lower court, of what use is a trial on the petition when all the documents and statement of facts are admitted, except, the alleged ownership of the parcel of land which had not been sufficiently established by petitioners.

Not only this, petitioners have not established their claim of ownership over the property in question before any court of law prior to their questioning of the mortgage and its foreclosure proceedings. Petitioners' alleged claim of ownership has never been registered before the Register of Deeds nor inscribed at the back of the Transfer Certificate of Title of the Da Silvas before the property was mortgaged to the Islamic Da' Wah Council of the Philippines.

The decision of respondent Court of Appeals recited all the material facts and documents submitted by both parties and the appellate court found no error on the part of the trial court in rendering its decision on the foreclosure case.

In fact, petitioners admit not having registered any encumbrance at the back of the title being foreclosed, nor do they have evidence to buttress their claim of ownership except verbal in nature derived from hearsay sources and that their alleged Deed of Sale was never registered from the date of its alleged execution in 1963 or for over 22 years.

Petitioners' verbal claim of ownership cannot prevail over a clear title to the property. Neither can it be attacked collaterally by questioning the foreclosure proceedings of a mortgage legally executed between the parties.

Even assuming *arguendo* that petitioners have a claim of ownership over the property in question, then they should have annotated the same at the back of the title before the property was mortgaged to bind third persons. It appearing that there was no such annotation of any claim, it cannot bind third persons, in the instant case, the private respondent who is a mortgagee in good faith and for value.

WHEREFORE, finding no reversible error in the decision appealed from, the petition for review on certiorari is hereby **DISMISSED** for lack of merit. The temporary restraining order issued on February 26, 1992 is hereby lifted. Costs against petitioners.

**SO ORDERED.**

Narvasa, C.J., (Chairman), Padilla, and Regalado, JJ., concur.  
Melo, J., no part.

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[1] Rollo, pp. 49-73.

[2] Rollo, pp. 161-164.

[3] Rollo, p. 165.

[4] Records, pp. 161-163, LRC Case No. Q-2772 (84), Branch XC, RTC, Quezon City.

[5] Records, pp. 137-138, Civil Case No. Q-43746, Branch 95, RTC, Quezon City.

[6] Records, p. 102.

[7] Records, pp. 93-101, Civil Case No. 0-46196, RTC, Quezon City.

[8] Records, p. 1.

[9] Rollo, pp. 170-171.

[10] Rollo, pp. 81-92, G.R. No.80892.

[11] Rollo, pp. 49-73.

[12] Rollo, 75-79.

[13] Rollo, p. 269.

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